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Alan J. Ying

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EXAMINER

NAJARIAN, LENA

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 09/776,484 | Applicant(s) YING ET AL. | |
| | Examiner LENA NAJARIAN | Art Unit 3686 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-17,19-21,23,25-27,29,30,32 and 34-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-17,19-21,23,25-27,29,30,32 and 34-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Request for Continued Examination (RCE) filed 12/8/08. Claims 44-49 are newly added. Claims 1, 3-5, 7-17, 19-21, 23, 25-27, 29-30, 32, and 34-49 are pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/08 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-5, 7-9, 15-17, 19, 21, 23, 38-41, 44-45, and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Evans (5,924,074), and further in view of Kilgore et al. (US 2002/0072911 A1).

(A) Referring to claim 1, Ballantyne discloses a method of presenting medical records for use by a medical provider, comprising (col. 10, lines 10-20 of Ballantyne):

formatting medical records for electronic presentation on a display screen of a mobile terminal (col. 14, lines 6-39 of Ballantyne);

and moving between different screens containing different classes of medical information regarding an associated patient (col. 9, lines 16-32 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose providing ergonomic actuators, electronically displayed on the display screen of the mobile terminal within said medical records, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Evans discloses providing ergonomic actuators, electronically displayed on the display screen of the mobile terminal within said medical records (Fig. 5 and col. 6, lines 37-54 of Evans; the Examiner interprets "tabs" to be a form of "actuators").

Ballantyne and Evans do not expressly wherein each ergonomic actuator is large enough to allow actuation via a user's *finger*.

Kilgore discloses wherein each ergonomic actuator is large enough to allow actuation via a user's *finger* (para. 37 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Evans and Kilgore within Ballantyne. The motivation for doing so would have been to organize patient data (col. 6, lines 40-42 of Evans) and to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(B) Referring to claim 4, Ballantyne discloses further comprising delivering one or more of said formatted medical records to a personal digital assistant (Fig. 1, item 10 and col. 3, lines 60-65 of Ballantyne).

(C) Referring to claim 5, Ballantyne discloses further comprising extracting said medical records from a hospital database prior to formatting said medical records for presentation on the mobile terminal, wherein extracting said medical records includes determining structure of the hospital database (col. 3, line 60 – col. 4, line 3 and col. 6, lines 16-19 of Ballantyne).

(D) Referring to claim 7, Ballantyne discloses accepting input from the mobile terminal to update one or more of said medical records (col. 12, lines 31-47 of Ballantyne).

(E) Referring to claim 8, Ballantyne discloses updating through the mobile terminal at least one of the medical records (col. 12, lines 31-47 of Ballantyne).

(F) Referring to claim 9, Ballantyne discloses a method of presenting information to medical providers comprising (col. 10, lines 10-20 of Ballantyne):

providing each of a plurality of medical providers with a mobile terminal (col. 3, lines 60-65 of Ballantyne);

formatting the information to be presented in its entirety on each of the mobile terminals, wherein the formatted information includes lab result information, vital sign information, and prescription information (col. 14, lines 6-39, col. 4, lines 35-36, col. 11, lines 18-22, and col. 17, lines 27-31 of Ballantyne; the Examiner interprets “temperature” and “pulse rate” to be forms of “vital sign information”); and

delivering the formatted information in its entirety to one or more of the mobile terminals (col. 10, lines 10-27 of Ballantyne); and

storing said reformatted medical records in a computer memory of a mobile terminal (col. 15, lines 22-32 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose wherein the delivered information is associated with respective user-selectable ergonomic features that are electronically displayed on a display screen of the mobile terminal, to invoke display of information and wherein each ergonomic feature is large enough to allow actuation via a user’s finger.

Evans discloses wherein the delivered information is associated with respective user-selectable ergonomic features that are electronically displayed on a display screen of the mobile terminal, to invoke display of information (Fig. 5 and col. 6, lines 37-54 of Evans).

Ballantyne and Evans do not expressly disclose wherein each ergonomic feature is large enough to allow actuation via a user’s *finger*.

Kilgore discloses wherein each ergonomic feature is large enough to allow actuation via a user's finger (para. 37 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Evans and Kilgore within Ballantyne. The motivation for doing so would have been to organize patient data (col. 6, lines 40-42 of Evans) and to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(G) Referring to claim 15, Ballantyne discloses wherein delivering the information to one or more of the mobile terminals comprises delivering the information to the mobile terminals through a docking station (col. 13, lines 57-63 of Ballantyne).

(H) Referring to claim 16, Ballantyne discloses wherein delivering the information to one or more of the mobile terminals comprises delivering the information to the mobile terminals wirelessly (col. 12, lines 35-37 of Ballantyne).

(I) Referring to claim 17, Ballantyne discloses a method of compiling a database of medical information, comprising:

- accessing a pre-existing database of medical records (col. 7, line 66 – col. 8, line 29 of Ballantyne);

- extracting therefrom said medical records (col. 13, lines 43-45 of Ballantyne);

- reformatting said medical records for delivery to mobile terminals and for electronic presentation on display screens of the mobile terminals (col. 14, lines 6-39 of Ballantyne) and displaying lab result information, vital sign information, and prescription

information (col. 4, lines 35-36, col. 11, lines 18-22, and col. 17, lines 27-31 of Ballantyne; the Examiner interprets “temperature” and “pulse rate” to be forms of “vital sign information”); and

storing said reformatted medical records in a computer memory of a mobile terminal (col. 15, lines 22-32 of Ballantyne).

Ballantyne does not disclose providing electronic ergonomic icons on the display screens of the mobile terminals to switch display between different classes of information in the medical record, wherein each ergonomic icon is large enough to allow actuation via a user’s finger and the ergonomic icons include icons for invoking display of the information.

Evans discloses providing electronic ergonomic icons on the display screens of the mobile terminals to switch display between different classes of information in the medical record, and the ergonomic icons include icons for invoking display of the information (Fig. 5 and col. 6, lines 37-54 of Evans).

Ballantyne and Evans do not expressly disclose wherein each ergonomic icon is large enough to allow actuation via a user’s *finger*.

Kilgore discloses wherein each ergonomic icon is large enough to allow actuation via a user’s finger (para. 37 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Evans and Kilgore within Ballantyne. The motivation for doing so would have been to organize patient data (col. 6, lines 40-42 of

Evans) and to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(J) Referring to claim 19, Ballantyne discloses updating said medical records with information provided by medical providers from mobile terminals (col. 12, lines 33-37 of Ballantyne).

(K) Referring to claim 21, Ballantyne discloses accessing reference material corresponding to the information and displaying the reference material (col. 5, lines 42-51 of Ballantyne).

(L) Referring to claim 23, Ballantyne discloses a system for delivering information to medical providers, comprising:

- a computer for storing medical records (col. 4, lines 29-54 of Ballantyne);

- a plurality of mobile terminals, wherein each mobile terminal comprises (col. 3, lines 60-65 of Ballantyne):

- a controller; a display operatively connected to said controller; and means for communicating with a database comprising medical records; said medical records viewable on said display (col. 10, lines 37-51 and col. 13, lines 43-45 of Ballantyne);
 - and

- means for providing said medical records to one or more of said plurality of mobile terminals (col. 10, lines 10-27 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose said display comprising one or more electronically displayed ergonomic icons

for switching between different classes of information in said medical records, wherein each ergonomic icon is large enough to allow actuation via a user's finger.

Evans discloses said display comprising one or more electronically displayed ergonomic icons for switching between different classes of information in said medical records (Fig. 5 and col. 6, lines 37-54 of Evans).

Ballantyne and Evans do not expressly disclose wherein each ergonomic icon is large enough to allow actuation via a user's *finger*.

Kilgore discloses wherein each ergonomic icon is large enough to allow actuation via a user's *finger* (para. 37 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Evans and Kilgore within Ballantyne. The motivation for doing so would have been to organize patient data (col. 6, lines 40-42 of Evans) and to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(M) Referring to claims 38-41, Ballantyne and Evans do not expressly disclose wherein the ergonomic actuators/features/icons do not include a stylus.

Kilgore discloses wherein the ergonomic actuators/features/icons do not include a stylus (para. 37 and 49 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Kilgore within Ballantyne and Evans. The

motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(N) Referring to claim 44, Ballantyne discloses configuring said mobile terminal to permit said medical provider to synchronize the records on said mobile terminal with a database (col. 13, lines 42-51 of Ballantyne).

(O) Referring to claim 45, Ballantyne and Evans do not disclose configuring said mobile terminal to display on said display screen hospital census services.

Kilgore discloses configuring said mobile terminal to display on said display screen hospital census services (para. 10 and para. 45 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Kilgore within Ballantyne and Evans. The motivation for doing so would have been to provide hospital management with information to make management decisions that maintain or improve the quality of the health care (para. 5, lines 1-6 of Kilgore).

(P) Referring to claim 47, Ballantyne and Evans do not disclose configuring said mobile device to automatically reproduce on said display screen information from a prior time period.

Kilgore discloses configuring said mobile device to automatically reproduce on said display screen information from a prior time period (para. 99 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Kilgore within Ballantyne and Evans. The

motivation for doing so would have been to make informed decisions by accessing historical information about patients (para. 99 of Kilgore).

(Q) Referring to claim 48, Ballantyne and Evans do not disclose configuring said mobile device to permit said medical provider to enter a specialty area into said mobile device.

Kilgore discloses configuring said mobile device to permit said medical provider to enter a specialty area into said mobile device (para. 42 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Kilgore within Ballantyne and Evans. The motivation for doing so would have been to provide a complete medical chart (para. 42 of Kilgore).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821), in view of Evans (5,924,074), in view of Kilgore et al. (US 2002/0072911 A1), and further in view of Walker et al. (US 6,302,844 B1).

(A) Referring to claim 3, Ballantyne, Evans, and Kilgore do not disclose further comprising delivering one or more of said formatted medical records to a wireless telephone.

Walker discloses transmitting information to a cellular telephone (col. 4, lines 43-48 of Walker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Walker within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been to use a known device capable of receiving and transmitting information (col. 4, lines 43-48 of Walker).

6. Claims 10-14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821), in view of Evans (5,924,074), in view of Kilgore et al. (US 2002/0072911 A1), and further in view of Chesanow ("PDAs for Doctors: Your ticket to fast, flawless prescribing").

(A) Referring to claim 10, Ballantyne, Evans, and Kilgore do not disclose wherein providing each of a plurality of medical providers with a mobile terminal comprises initially giving at least one medical provider a mobile terminal free of charge.

Chesanow discloses wherein providing each of a plurality of medical providers with a mobile terminal comprises initially giving at least one medical provider a mobile terminal free of charge (page 7, para. 4 of Chesanow; the Examiner interprets "palm-size PDA" to be a form of "mobile terminal").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been to encourage physicians to subscribe to the service (page 7, para. 4 of Chesanow).

(B) Referring to claim 11, Ballantyne, Evans, and Kilgore do not disclose wherein providing each of a plurality of medical providers with a mobile terminal comprises subsequently selling mobile terminals to medical providers.

Chesanow discloses wherein providing each of a plurality of medical providers with a mobile terminal comprises subsequently selling mobile terminals to medical providers (page 7, para. 4 of Chesanow; the Examiner interprets “choose a Palm Vx for \$100” to be a form of “selling mobile terminals”).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been for the hardware cost to be the responsibility of the customer (page 7, para. 4 of Chesanow).

(C) Referring to claims 12-14, Ballantyne, Evans, and Kilgore do not disclose further comprising charging a fee for access to said information, wherein charging a fee for access to said information comprises charging a monthly fee for access to said information, and wherein charging a fee for access to said information comprises charging an annual fee for access to said information.

Chesanow discloses charging fees for access to said information (page 7, para. 4 of Chesanow; the Examiner interprets “\$20 a month” to be a form of “monthly fee” and “subscribe...for a year” to be a form of “annual fee”).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne, Evans, and

Kilgore. The motivation for doing so would have been to compensate the provider for services rendered.

(D) Referring to claim 20, Ballantyne, Evans, and Kilgore do not disclose a charge capture service to maintain a list of costs corresponding to services administered to a patient.

Chesanow discloses a charge capture service to maintain a list of costs corresponding to services administered to a patient (page 7, para. 6 of Chesanow; the Examiner interprets “capture patient billing data” to be a form of “charge capture service”).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been to allow the user to view a record of the patient’s billing information (page 7, para. 6 of Chesanow).

7. Claims 25-27, 29-30, 37, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Kilgore et al.

(US 2002/0072911 A1), and further in view of Milner et al. (US 6,339,410 B1).

(A) Referring to claim 25, Ballantyne discloses a method of providing medical records to a doctor treating patients within a medical facility, said method comprising (col. 12, line 66 – col. 13, line 10 and col. 1, lines 12-21 of Ballantyne):

providing the doctor with a mobile terminal having a memory for storing medical information regarding at least one patient (col. 15, lines 22-32 of Ballantyne);

providing a main database comprising the medical information regarding at least one patient (col. 7, line 65 – col. 8, line 2 of Ballantyne);

sending the medical information regarding at least one patient from the main database to the mobile terminal (col. 14, lines 6-10 and col. 13, lines 43-45 of Ballantyne);

receiving updated information from the doctor at the mobile terminal (col. 12, lines 33-37 of Ballantyne); and

maintaining the main database updated by transferring said updated information from said mobile terminal to said main database (col. 12, lines 33-37 and col. 12, line 48 – col. 13, line 1 of Ballantyne).

Ballantyne does not disclose wherein the main database comprises a census of each patient within the medical facility and an expected discharge time and does not expressly disclose electronically displaying on the mobile terminal the medical information and pictorial ergonomic actuators that permit movement between different screens containing different classes of the medical information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Kilgore discloses wherein the main database comprises a census of each patient within the medical facility and an expected discharge time (para. 5 of Kilgore) and electronically displaying on the mobile terminal the medical information and permitting

movement between different screens containing different classes of the medical information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger (para. 37 and para. 49 of Kilgore).

Milner discloses electronically displaying pictorial ergonomic actuators (abstract and Fig. 16 of Milner).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore and Milner within Ballantyne. The motivation for doing so would have been to provide hospital management with information to make management decisions that maintain or improve the quality of the health care (para. 5, lines 1-6 of Kilgore), to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore), and to assist those who cannot read (abstract of Milner).

(B) Referring to claim 26, Ballantyne discloses wherein maintaining the main database updated by transferring said updated information from said mobile terminal to said main database comprises maintaining the main database updated by transferring said updated information from said mobile terminal to said main database through a docking station (col. 13, line 43-63 of Ballantyne).

(C) Referring to claim 27, Ballantyne discloses wherein maintaining the main database updated by transferring said updated information from said mobile terminal to said main database comprises maintaining the main database updated by transferring said

updated information from said mobile terminal to said main database through a wireless area network (col. 12, lines 33-37 of Ballantyne).

(D) Referring to claim 29, Ballantyne does not disclose further including changing the expected discharge time for a patient based on updated information from the doctor.

Kilgore discloses further including changing the expected discharge time for a patient based on updated information from the doctor (para. 42, para. 98, and Fig. 13, item 242 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Kilgore within Ballantyne. The motivation for doing so would have been to track patients and information related to the patients (para. 7, lines 1-2 of Kilgore).

(E) Referring to claim 30, Ballantyne discloses providing reference information to the mobile terminal upon receiving a request (col. 5, lines 42-51 of Ballantyne).

(F) Referring to claim 37, Ballantyne and Kilgore do not disclose wherein the ergonomic actuator comprises a pictorial representation on the display screen.

Milner discloses wherein the ergonomic actuator comprises a pictorial representation on the display screen (abstract and Fig. 16 of Milner).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Milner within Ballantyne and Kilgore. The motivation for doing so would have been to assist those who cannot read (abstract of Milner).

(G) Referring to claim 42, Ballantyne does not expressly disclose wherein the ergonomic actuators do not include a stylus.

Kilgore discloses wherein the ergonomic actuators do not include a stylus.
(para. 37 and para. 49 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore within Ballantyne. The motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

8. Claims 32, 34, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Felsher (US 2002/0010679 A1), in view of Kilgore et al. (US 2002/0072911 A1), and further in view of Milner et al. (US 6,339,410 B1).

(A) Referring to claim 32, Ballantyne discloses a method of maintaining records at a medical facility, said method comprising the steps of:

providing mobile terminals to a plurality of physicians (col. 3, lines 60-65 and col. 15, lines 2-20 of Ballantyne);

maintaining a database containing a medical status of a plurality of patients (col. 6, lines 47-57 of Ballantyne);

sending information regarding at least one patient to at least one of the mobile terminals (col. 14, lines 6-10 of Ballantyne);

receiving treatment updates from at least one of the mobile terminals (col. 15, lines 63-65 of Ballantyne);

updating the database to include the treatment updates (col. 12, lines 33-47 of Ballantyne).

Ballantyne does not disclose wherein each of said patient's medical status comprises an expected departure date and updating the database to include treatment updates comprises altering the expected departure date.

Felsher discloses wherein each of said patient's medical status comprises an expected departure date and updating the database to include treatment updates comprises altering the expected departure date (para. 56 and para. 65 of Felsher; the Examiner interprets "discharge" to be a form of "departure" and "service" to be a form of "treatment").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Felsher within Ballantyne. The motivation for doing so would have been to keep a record of findings from discharge summaries (para. 10 of Felsher).

Ballantyne and Felsher do not expressly disclose electronically displaying on the at least one mobile terminal the information and pictorial ergonomic actuators that permit movement between different screens containing different classes of the information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Kilgore discloses electronically displaying on the at least one mobile terminal the information and permitting movement between different screens containing different classes of the information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger (para. 37 and para. 49 of Kilgore).

Milner discloses electronically displaying pictorial ergonomic actuators (abstract and Fig. 16 of Milner).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore and Milner within Ballantyne and Felsher. The motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore) and to assist those who cannot read (abstract of Milner).

(B) Referring to claim 34, Ballantyne does not disclose wherein each medical status comprises a bill containing each service indicated in the treatment updates.

Felsher discloses wherein each medical status comprises a bill containing each service indicated in the treatment updates (para. 65 of Felsher).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Felsher within Ballantyne. The motivation for doing so would have been to keep track of all services provided to the same patient (para. 65, lines 16-24 of Felsher).

(C) Referring to claim 43, Ballantyne and Felsher do not expressly disclose wherein the ergonomic actuators do not include a stylus.

Kilgore discloses wherein the ergonomic actuators do not include a stylus.
(para. 37 and para. 49 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore within Ballantyne and Felsher. The motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

9. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. in view of Kilgore et al. (US 2002/0072911 A1).

(A) Referring to claim 35, Ballantyne discloses a method of presenting medical records for use by a medical provider, comprising (col. 10, lines 10-20 of Ballantyne):

formatting medical records for electronic presentation on a display screen of a mobile terminal (col. 14, lines 6-39 of Ballantyne), wherein formatting said medical records comprises providing a means to move between different screens containing different classes of medical information regarding an associated patient (col. 9, lines 16-32 of Ballantyne).

Ballantyne does not disclose wherein the means does not include a stylus, a pen, a pointer, a button, or other physical device, and the means is large enough to allow actuation via a user's finger.

Kilgore discloses wherein the means does not include a stylus, a pen, a pointer, a button, or other physical device, and the means is large enough to allow actuation via a user's finger (para. 37 and para. 49 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore within Ballantyne. The motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(B) Referring to claim 36, Ballantyne discloses wherein the means is electronically displayed on the display screen (col. 10, lines 10-20 and col. 9, lines 16-32 of Ballantyne).

10. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Evans (5,924,074), in view of Kilgore et al. (US 2002/0072911 A1), and further in view of Zak et al. (US 2002/0004729 A1).

(A) Referring to claim 46, Ballantyne, Evans, and Kilgore do not expressly disclose wherein said ergonomic actuator comprises a thermometer icon, and said thermometer icon relates to said patient's vital statistics.

Zak discloses an icon that relates to said patient's vital statistics (para. 86 of Zak).

Zak does not teach that the icon is called a thermometer icon; however, these differences are only found in the non-functional descriptive material and are not

functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Zak within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been to allow users to document vital signs quickly (para. 86 of Zak).

11. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Evans (5,924,074), in view of Kilgore et al. (US 2002/0072911 A1), and further in view of Kehr et al. (US 2003/0036683 A1).

(A) Referring to claim 49, Ballantyne, Evans, and Kilgore do not disclose configuring said mobile device to display on said display screen advertising targeted to said specialty area.

Kehr discloses configuring said mobile device to display on said display screen advertising targeted to said specialty area (para. 281 of Kehr).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Kehr within Ballantyne, Evans, and Kilgore. The motivation for doing so would have been to maximize the sales of specific medications (para. 281 of Kehr).

Response to Arguments

12. Applicant's arguments filed 12/8/08 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 12/8/08.

(1) Applicant argues that none of the cited references disclose all the features of the claimed subject matter. Specifically, not one of the three primary cited references discloses a mobile terminal on which ergonomic actuators are electronically displayed on the display screen of the mobile terminal, wherein each ergonomic actuator is large enough to allow actuation via a user's finger. The Applicant respectfully submits that the Final Office Action has failed to establish a prima facie case of obviousness.

Regarding Ballantyne and Evans, the two references that relate to mobile or portable devices, both employ pen-based technology, apparently so that smaller icons can be used on the smaller display screens of the mobile devices. Kilgore, the only reference that notes that a user's finger can be used to actuate a touch sensitive screen, does not teach use of such screens on mobile devices.

(A) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In addition, the limitation of "wherein each ergonomic actuator is large enough to allow actuation via a user's finger," presents no novel or unexpected result over the pen-based technology used in the Ballantyne and Evans references. Use of a finger in lieu of a pen used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. *In re Launder*, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); *Flour City Architectural Metals v. Alpana Aluminum Products, Inc.*, 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); *National Connector Corp. v. Malco Manufacturing Co.*, 392 F.2d 766. 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./
Examiner, Art Unit 3686
In
12/17/08

/Gerald J. O'Connor/
Supervisory Patent Examiner
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